

106TH CONGRESS  
1ST SESSION

# H. R. 2681

To establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1999

Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Rail Passenger Dis-  
5       aster Family Assistance Act of 1999”.

1 **SEC. 2. ASSISTANCE BY NATIONAL TRANSPORTATION SAFE-**  
2 **TY BOARD TO FAMILIES OF PASSENGERS IN-**  
3 **VOLVED IN RAIL PASSENGER ACCIDENTS.**

4 (a) IN GENERAL.—Subchapter III of chapter 11 of  
5 title 49, United States Code, is amended by adding at the  
6 end the following:

7 **“§ 1137. Assistance to families of passengers involved**  
8 **in rail passenger accidents**

9 “(a) IN GENERAL.—As soon as practicable after  
10 being notified of a rail passenger accident within the  
11 United States involving a rail passenger carrier and result-  
12 ing in a major loss of life, the Chairman of the National  
13 Transportation Safety Board shall—

14 “(1) designate and publicize the name and  
15 phone number of a director of family support serv-  
16 ices who shall be an employee of the Board and shall  
17 be responsible for acting as a point of contact within  
18 the Federal Government for the families of pas-  
19 sengers involved in the accident and a liaison be-  
20 tween the rail passenger carrier and the families;  
21 and

22 “(2) designate an independent nonprofit organi-  
23 zation, with experience in disasters and posttrauma  
24 communication with families, which shall have pri-  
25 mary responsibility for coordinating the emotional

1 care and support of the families of passengers in-  
2 volved in the accident.

3 “(b) RESPONSIBILITIES OF THE BOARD.—The Board  
4 shall have primary Federal responsibility for—

5 “(1) facilitating the recovery and identification  
6 of fatally injured passengers involved in an accident  
7 described in subsection (a); and

8 “(2) communicating with the families of pas-  
9 sengers involved in the accident as to the roles of—

10 “(A) the organization designated for an ac-  
11 cident under subsection (a)(2);

12 “(B) government agencies; and

13 “(C) the rail passenger carrier involved,  
14 with respect to the accident and the post-accident  
15 activities.

16 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-  
17 TION.—The organization designated for an accident under  
18 subsection (a)(2) shall have the following responsibilities  
19 with respect to the families of passengers involved in the  
20 accident:

21 “(1) To provide mental health and counseling  
22 services, in coordination with the disaster response  
23 team of the rail passenger carrier involved.

1           “(2) To take such actions as may be necessary  
2           to provide an environment in which the families may  
3           grieve in private.

4           “(3) To meet with the families who have trav-  
5           eled to the location of the accident, to contact the  
6           families unable to travel to such location, and to  
7           contact all affected families periodically thereafter  
8           until such time as the organization, in consultation  
9           with the director of family support services des-  
10          ignated for the accident under subsection (a)(1), de-  
11          termines that further assistance is no longer needed.

12          “(4) To arrange a suitable memorial service, in  
13          consultation with the families.

14          “(d) PASSENGER LISTS.—

15               “(1) REQUESTS FOR PASSENGER LISTS.—

16                   “(A) REQUESTS BY DIRECTOR OF FAMILY  
17                   SUPPORT SERVICES.—It shall be the responsi-  
18                   bility of the director of family support services  
19                   designated for an accident under subsection  
20                   (a)(1) to request, as soon as practicable, from  
21                   the rail passenger carrier involved in the acci-  
22                   dent a list, which is based on the best available  
23                   information at the time of the request, of the  
24                   names of the passengers that were aboard the  
25                   rail passenger carrier’s train involved in the ac-

1           cident. A rail passenger carrier shall use rea-  
2           sonable efforts, with respect to its unreserved  
3           trains, and passengers not holding reservations  
4           on its other trains, to ascertain the names of  
5           passengers aboard a train involved in an acci-  
6           dent.

7                   “(B) REQUESTS BY DESIGNATED ORGANI-  
8           ZATION.—The organization designated for an  
9           accident under subsection (a)(2) may request  
10          from the rail passenger carrier involved in the  
11          accident a list described in subparagraph (A).

12                   “(2) USE OF INFORMATION.—The director of  
13          family support services and the organization may  
14          not release to any person information on a list ob-  
15          tained under paragraph (1) but may provide infor-  
16          mation on the list about a passenger to the family  
17          of the passenger to the extent that the director of  
18          family support services or the organization considers  
19          appropriate.

20                   “(e) CONTINUING RESPONSIBILITIES OF THE  
21          BOARD.—In the course of its investigation of an accident  
22          described in subsection (a), the Board shall, to the max-  
23          imum extent practicable, ensure that the families of pas-  
24          sengers involved in the accident—

1           “(1) are briefed, prior to any public briefing,  
2           about the accident and any other findings from the  
3           investigation; and

4           “(2) are individually informed of and allowed to  
5           attend any public hearings and meetings of the  
6           Board about the accident.

7           “(f) USE OF RAIL PASSENGER CARRIER RE-  
8 SOURCES.—To the extent practicable, the organization  
9 designated for an accident under subsection (a)(2) shall  
10 coordinate its activities with the rail passenger carrier in-  
11 volved in the accident to facilitate the reasonable use of  
12 the resources of the carrier.

13          “(g) PROHIBITED ACTIONS.—

14               “(1) ACTIONS TO IMPEDE THE BOARD.—No  
15           person (including a State or political subdivision)  
16           may impede the ability of the Board (including the  
17           director of family support services designated for an  
18           accident under subsection (a)(1)), or an organization  
19           designated for an accident under subsection (a)(2),  
20           to carry out its responsibilities under this section or  
21           the ability of the families of passengers involved in  
22           the accident to have contact with one another.

23               “(2) UNSOLICITED COMMUNICATIONS.—No un-  
24           solicited communication concerning a potential ac-  
25           tion for personal injury or wrongful death may be

1 made by an attorney (including any associate, agent,  
2 employee, or other representative of an attorney) or  
3 any potential party to the litigation to an individual  
4 (other than an employee of the rail passenger car-  
5 rier) injured in the accident, or to a relative of an  
6 individual involved in the accident, before the 45th  
7 day following the date of the accident.

8 “(3) PROHIBITION ON ACTIONS TO PREVENT  
9 MENTAL HEALTH AND COUNSELING SERVICES.—No  
10 State or political subdivision may prevent the em-  
11 ployees, agents, or volunteers of an organization des-  
12 ignated for an accident under subsection (a)(2) from  
13 providing mental health and counseling services  
14 under subsection (c)(1) in the 30-day period begin-  
15 ning on the date of the accident. The director of  
16 family support services designated for the accident  
17 under subsection (a)(1) may extend such period for  
18 not to exceed an additional 30 days if the director  
19 determines that the extension is necessary to meet  
20 the needs of the families and if State and local au-  
21 thorities are notified of the determination.

22 “(h) DEFINITIONS.—In this section, the following  
23 definitions apply:

1           “(1) RAIL PASSENGER ACCIDENT.—The term  
2           ‘rail passenger accident’ means any rail passenger  
3           disaster occurring in the provision of—

4                   “(A) interstate intercity rail passenger  
5                   transportation (as such term is defined in sec-  
6                   tion 24102); or

7                   “(B) interstate or intrastate high-speed  
8                   rail (as such term is defined in section 26105)  
9                   transportation,  
10           regardless of its cause or suspected cause.

11           “(2) RAIL PASSENGER CARRIER.—The term  
12           ‘rail passenger carrier’ means a rail carrier  
13           providing—

14                   “(A) interstate intercity rail passenger  
15                   transportation (as such term is defined in sec-  
16                   tion 24102); or

17                   “(B) interstate or intrastate high-speed  
18                   rail (as such term is defined in section 26105)  
19                   transportation,  
20           except that such term shall not include a tourist,  
21           historic, scenic, or excursion rail carrier.

22           “(3) PASSENGER.—The term ‘passenger’  
23           includes—

24                   “(A) an employee of a rail passenger car-  
25                   rier aboard a train;



1           “(B) any other person aboard the train  
 2           without regard to whether the person paid for  
 3           the transportation, occupied a seat, or held a  
 4           reservation for the rail transportation; and

5           “(C) any other person injured or killed in  
 6           the accident.

7           “(i) LIMITATION ON STATUTORY CONSTRUCTION.—  
 8           Nothing in this section may be construed as limiting the  
 9           actions that a rail passenger carrier may take, or the obli-  
 10          gations that a rail passenger carrier may have, in pro-  
 11          viding assistance to the families of passengers involved in  
 12          a rail passenger accident.”.

13          (b) CONFORMING AMENDMENT.—The table of sec-  
 14          tions for such chapter is amended by inserting after the  
 15          item relating to section 1136 the following:

“1137. Assistance to families of passengers involved in rail passenger acci-  
 dents.”.

16   **SEC. 3. RAIL PASSENGER CARRIER PLANS TO ADDRESS**  
 17                   **NEEDS OF FAMILIES OF PASSENGERS IN-**  
 18                   **INVOLVED IN RAIL PASSENGER ACCIDENTS.**

19          (a) IN GENERAL.—Part C of subtitle V of title 49,  
 20          United States Code, is amended by adding at the end the  
 21          following new chapter:

22          **“CHAPTER 251—FAMILY ASSISTANCE**

“Sec.

“25101. Plans to address needs of families of passengers involved in rail pas-  
 senger accidents.

1 **“§ 25101. Plans to address needs of families of pas-**  
2 **sengers involved in rail passenger acci-**  
3 **dents**

4 “(a) SUBMISSION OF PLANS.—Not later than 6  
5 months after the date of the enactment of this section,  
6 each rail passenger carrier shall submit to the Secretary  
7 of Transportation and the Chairman of the National  
8 Transportation Safety Board a plan for addressing the  
9 needs of the families of passengers involved in any rail  
10 passenger accident involving a train of the rail passenger  
11 carrier and resulting in a major loss of life.

12 “(b) CONTENTS OF PLANS.—A plan to be submitted  
13 by a rail passenger carrier under subsection (a) shall in-  
14 clude, at a minimum, the following:

15 “(1) A plan for publicizing a reliable, toll-free  
16 telephone number, and for providing staff, to handle  
17 calls from the families of the passengers.

18 “(2) A process for notifying the families of the  
19 passengers, before providing any public notice of the  
20 names of the passengers, either by utilizing the serv-  
21 ices of the organization designated for the accident  
22 under section 1137(a)(2) of this title or the services  
23 of other suitably trained individuals.

24 “(3) An assurance that the notice described in  
25 paragraph (2) will be provided to the family of a  
26 passenger as soon as the rail passenger carrier has

1       verified that the passenger was aboard the train  
2       (whether or not the names of all of the passengers  
3       have been verified) and, to the extent practicable, in  
4       person.

5           “(4) An assurance that the rail passenger car-  
6       rier will provide to the director of family support  
7       services designated for the accident under section  
8       1137(a)(1) of this title, and to the organization des-  
9       ignated for the accident under section 1137(a)(2) of  
10      this title, immediately upon request, a list (which is  
11      based on the best available information at the time  
12      of the request) of the names of the passengers  
13      aboard the train (whether or not such names have  
14      been verified), and will periodically update the list.  
15      The plan shall include a procedure, with respect to  
16      unreserved trains and passengers not holding res-  
17      ervations on other trains, for the rail passenger car-  
18      rier to use reasonable efforts to ascertain the names  
19      of passengers aboard a train involved in an accident.

20           “(5) An assurance that the family of each pas-  
21      senger will be consulted about the disposition of all  
22      remains and personal effects of the passenger within  
23      the control of the rail passenger carrier.

24           “(6) An assurance that if requested by the fam-  
25      ily of a passenger, any possession of the passenger

1 within the control of the rail passenger carrier (re-  
2 gardless of its condition) will be returned to the fam-  
3 ily unless the possession is needed for the accident  
4 investigation or any criminal investigation.

5 “(7) An assurance that any unclaimed posses-  
6 sion of a passenger within the control of the rail  
7 passenger carrier will be retained by the rail pas-  
8 senger carrier for at least 18 months.

9 “(8) An assurance that the family of each pas-  
10 senger or other person killed in the accident will be  
11 consulted about construction by the rail passenger  
12 carrier of any monument to the passengers, includ-  
13 ing any inscription on the monument.

14 “(9) An assurance that the treatment of the  
15 families of nonrevenue passengers will be the same  
16 as the treatment of the families of revenue pas-  
17 sengers.

18 “(10) An assurance that the rail passenger car-  
19 rier will work with any organization designated  
20 under section 1137(a)(2) of this title on an ongoing  
21 basis to ensure that families of passengers receive an  
22 appropriate level of services and assistance following  
23 each accident.

24 “(11) An assurance that the rail passenger car-  
25 rier will provide reasonable compensation to any or-

1 organization designated under section 1137(a)(2) of  
2 this title for services provided by the organization.

3 “(12) An assurance that the rail passenger car-  
4 rier will assist the family of a passenger in traveling  
5 to the location of the accident and provide for the  
6 physical care of the family while the family is stay-  
7 ing at such location.

8 “(13) An assurance that the rail passenger car-  
9 rier will commit sufficient resources to carry out the  
10 plan.

11 “(14) An assurance that the rail passenger car-  
12 rier will provide adequate training to the employees  
13 and agents of the carrier to meet the needs of sur-  
14 vivors and family members following an accident.

15 “(15) An assurance that, upon request of the  
16 family of a passenger, the rail passenger carrier will  
17 inform the family of whether the passenger’s name  
18 appeared on any preliminary passenger manifest for  
19 the train involved in the accident.

20 “(c) LIMITATION ON LIABILITY.—A rail passenger  
21 carrier shall not be liable for damages in any action  
22 brought in a Federal or State court arising out of the per-  
23 formance of the rail passenger carrier in preparing or pro-  
24 viding a passenger list, or in providing information con-  
25 cerning a train reservation, pursuant to a plan submitted

1 by the rail passenger carrier under subsection (b), unless  
 2 such liability was caused by conduct of the rail passenger  
 3 carrier which was grossly negligent or which constituted  
 4 intentional misconduct.

5 “(d) DEFINITIONS.—In this section—

6 “(1) the terms ‘rail passenger accident’ and  
 7 ‘rail passenger carrier’ have the meanings such  
 8 terms have in section 1137 of this title; and

9 “(2) the term ‘passenger’ means a person  
 10 aboard a rail passenger carrier’s train that is in-  
 11 volved in a rail passenger accident.

12 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—  
 13 Nothing in this section may be construed as limiting the  
 14 actions that a rail passenger carrier may take, or the obli-  
 15 gations that a rail passenger carrier may have, in pro-  
 16 viding assistance to the families of passengers involved in  
 17 a rail passenger accident.”.

18 (b) CONFORMING AMENDMENT.—The table of chap-  
 19 ters for subtitle V of title 49, United States Code, is  
 20 amended by adding after the item relating to chapter 249  
 21 the following new item:

“251. FAMILY ASSISTANCE ..... 25101”.

